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October 17, 2024

**VIA ECF**

Honorable Judge Robert W. Lehrburger  
Daniel Patrick Moynihan United States Courthouse  
500 Pearl Street  
New York, NY 10007-1312

**RE: PDV USA, Inc. v. Interamerican Consulting, Inc.**  
**Case No.: 1:20-cv-03699-JGK-RWL**

Dear Judge Lehrburger:

We represent Interamerican Consulting, Inc. (“Interamerican”) in the above-referenced case. We file this letter in response to the letters (the “Letters”) (Docs. 233 and 234) submitted by PDV USA, Inc. (“PDV USA”) on October 15 and 16, 2024. The letters are not only procedurally improper and an abuse of the civil litigation process, but they also include blatant misrepresentations of the record. Accordingly, Interamerican respectfully requests that that this Court strike the Letters, admonish PDV USA for its abuse of the civil litigation process and misstatements, or, in the alternative, grant Interamerican leave to file a response addressing the arguments raised in PDV USA’s Letters.

As a threshold matter, PDV USA’s so-called letter notice of supplemental authority (the “October 15, 2024 Letter”) (Doc. 233) is an impermissible attempt to supplement its prior briefing on its Motion for Sanctions (Doc. 208). Nothing in the Local Rules or Your Honors Individual Practices permits PDV USA to continue to supplement its Motion for Sanctions without leave of Court. *See Wells Fargo Bank, N.A. v. Wrights Mill Holdings, LLC*, 127 F.Supp.3d 156, 164 n.5 (S.D.N.Y. 2015) (refusing to consider supplemental letter because it “improperly raises new arguments after the close of briefing and argument, without having sought or obtained permission for such a submission”). Nor can PDV USA characterize its October 15, 2024 Letter as a Notice of Supplemental Authority to evade this Court’s rules and make additional arguments. The October 15,

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2024 Letter does not cite any new authority, such as cases or statutes, but instead attaches filings from this case and others to support new factual arguments without affording Interamerican an opportunity to respond.

Second, and equally troubling, PDV USA does not dispute that it knowingly misrepresented Mr. Rivera's October 2024 Affidavit. In its October 15, 2024 Letter, PDV USA stated: "[i]n the October 2024 Affidavit, Mr. Rivera states that 'in 'late 2021' he 'provide[d] a copy of [the Cozen Memorandum]' to Esther Nuhfer." (Doc. 233 at p. 2) (citing Doc. 233-2 at ¶ 7). That is not what Mr. Rivera said. Mr. Rivera stated in its October 2024 Memorandum: "I did not provide a copy of the [Cozen Memorandum] to Ms. Nuhfer, since she never requested one until late 2021." (Doc. 233-2 at ¶ 6). This is a clear and blatant misrepresentation, which can only be made by cutting out the words from the actual statement that patently refute the proposition for which PDV USA offered it.

Rather than acknowledge its misconduct and voluntarily withdraw its misstatement, PDV USA doubled down and filed its October 16, 2024 letter (the "October 16, 2024 Letter") (Doc. 234) to provide "context" for its "interpretation" of the October 2024 Affidavit.<sup>1</sup> Whatever interpretation of Mr. Rivera's affidavit PDV USA may have is irrelevant and does not change the fact that PDV USA's attorneys knowingly cut out words from Mr. Rivera's actual statement to make it appear as if he said just the opposite of what he actually said. Such conduct is not only inconsistent with PDV USA's duty of candor to the Court, but also sanctionable if not withdrawn. *Galin v. Hamada*, 283 F. Supp. 3d 189, 202 (S.D.N.Y. 2017) ("[A] court may impose sanctions on a party for refusing to withdraw an allegation or claim even after it is shown to be inaccurate.") (Furman, J.) (internal quotation marks, alterations, and citation omitted).

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<sup>1</sup> PDV USA October 16, 2024 Letter is also procedurally improper and should be stricken.



For these reasons, Interamerican respectfully requests that this Court admonish PDV USA for its abuse of the civil litigation process and misrepresentations, and to strike the Letters as procedurally improper. In the alternative, Interamerican requests that the Court grant it leave to respond to the new arguments raised in the Letters.

Respectfully submitted,

Motion to strike denied. PDV submitted new factual information, including the entirety of the affidavit that Interamerican says PDV misrepresented. Interamerican may, however, file a single substantive response of no more than 4 pages by October 24, 2024.

/s/ Jason Johnson

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SO ORDERED:

10/17/2024

A handwritten signature in black ink, appearing to be 'R. Lehrburger', written over a horizontal line.

HON. ROBERT W. LEHRBURGER  
UNITED STATES MAGISTRATE JUDGE

CC: All counsel of record (by ECF)

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